

## REMARKS/ARGUMENTS

In the Office Action mailed March 20, 2009, claims 1-3, 5-13, and 15-19 were rejected. In response, Applicants hereby request reconsideration of the application in view of the amendments and the below-provided remarks.

For reference, claims 1, 3, 6, 11, 13, and 16 are amended. In particular, claim 1 is amended to recite the decision means are designed to communicate the decision result to the second communication partner appliance with the aid of the communication signal processing means. Claim 11 is amended to recite similar language as recited in claim 1. These amendments are supported, for example, by the original language of claims 1 and 7, as well as the subject matter described in the specification at page 5, lines 13-26, of the present application. Consequently, claims 7 and 17 are canceled. Claim 3 is amended to recite the at least one energy source serving to supply the circuit of the second communication partner appliance with electrical energy comprises a battery arrangement, and the first type information is characteristic of the type of battery arrangement serving to supply the circuit. Claim 13 is amended to recite similar language. These amendments are supported, for example, by the subject matter described in the specification at page 8, lines 4-30, of the present application. Claim 6 is amended to recite the at least one energy source serving to supply the circuit of the first communication partner appliance with electrical energy comprises a second battery arrangement, and the second type information is characteristic of the type of the second battery arrangement. Claim 16 is amended to recite similar language. These amendments are supported, for example, by the subject matter described in the specification at page 8, lines 4-30, of the present application.

Also, claims 20-23 are added. In particular, claim 20 is added to depend from independent claim 1 and to recite language related to a second decision result. Claim 22 is added to depend from independent claim 11 and to recite similar language. These amendments are supported, for example, by the subject matter described in the specification at page 12, lines 17-21, and page 13, line 32, through page 14, line 2. Claim 21 is added to depend from dependent claim 20 and to recite forming the decision result in agreement with the second communication partner appliance. Claim 23 is added to

depend from dependent claim 22 and to recite similar limitations. These amendments are supported, for example, by the subject matter described in the specification at page 15, lines 23-33, page 17, lines 22-28, and page 19, lines 3-21.

#### Claim Rejections under 35 U.S.C. 103

Claims 1-3, 5-13, and 14-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roz (U.S. Pat. No. 6,462,647, hereinafter Roz) in view of Yamagishi (U.S. Pat. No. 6,982,747, hereinafter Yamagishi). However, Applicants respectfully submit that these claims are patentable over Roz and Yamagishi for the reasons provided below.

#### Independent Claim 1

Applicants submit that claim 1 is patentable over the combination of Roz and Yamagishi because the combination of cited references does not teach all of the limitations of the claim. Claim 1 recites:

A circuit for a first communication partner appliance designed for contactless communication within a communication system comprising at least one second communication partner appliance in which circuit either an active send mode or a passive send mode may be activated, the circuit comprising:

terminal means to transmit carrier signals usable for contactless communication;

communication signal processing means to activate an active send mode and a passive send mode, wherein the active send mode uses a carrier signal generated with the communication signal processing means for the contactless communication, and the passive send mode uses a carrier signal generated with a second communication partner appliance and received by the circuit via the terminal means for the contactless communication;

determination means to determine first energy source information which comprises at least one parameter of at least one energy source serving to supply the circuit with electrical energy;

an external energy source information identification stage to identify second energy source information which comprises at least one parameter of at least one energy source serving to supply a circuit of the second communication partner appliance with electrical energy; and

decision means to form a decision result based on the first and second energy source information from the first and second

communication partner appliances, wherein the decision result influences which send mode is to be activated in the circuit of the first communication partner appliance, and wherein the decision means are designed to communicate the decision result to the second communication partner appliance with the aid of the communication signal processing means.  
(Emphasis added.)

In contrast, the combination of Roz and Yamagishi does not teach all of the limitations of the claim because the combination of cited references does not teach decision means to communicate a decision result to a second communication partner appliance. For reference, the decision result influences which send mode is to be activated in the circuit of a first communication partner appliance, as recited in claim 1.

The indicated language of claim 1 was previously recited in claim 7. In the previous rejection of claim 7, the Office Action relies on Roz as purportedly teaching the indicated limitation. In particular, the Office Action states:

Roz teaches wherein the decision means are designed to communicate the decision result to the second communication partner appliance with the aid of the communication signal processing means (column 3 lines 30-37, line 63 to column 4 line 25, where selected energy source supplying the transponder).  
Office Action, 3/20/09, page 7.

However, despite the assertions in the Office Action, Roz does not teach communicating the decision result to a second communication partner appliance. As explained in Applicants' previous response, Roz is generally directed to active transponders that are able to be switched into passive transponders. Roz, col. 1, lines 3-5. Roz specifically addresses many aspects of charging a battery in the transponder when the battery falls below a minimum threshold voltage  $V_{min}$ . Roz, col. 5, line 42, through col. 6, line 27. Additionally, Roz describes operating the transponder through connections to either 1) an accumulator (i.e., a battery) in an active mode, or 2) storage means (i.e., a capacitor) in a passive mode (the storage means also charges the accumulator). Roz, col. 8, lines 1-16. The transponder operates in the passive mode when the voltage  $V_1$  from the accumulator falls below the minimum threshold voltage  $V_{min}$ . Roz, Fig. 8; col. 8, lines 49-62. Ultimately, the operation of the transponder in

either the active mode or the passive mode depends entirely on the accumulator voltage V1 and the storage means voltage V2.

Although Roz generally describes functionality related to switching between operation as an active or passive transponder, Roz nevertheless does not teach communicating a decision result to another communication partner appliance. Roz merely describes the operation of the transponder itself, without regard to the operation of other transponders or communication devices. Therefore, Roz does not teach communicating a decision result to a second communication partner appliance. Further, Yamagishi does not remedy this lack of teaching by Roz because Yamagishi also fails to teach the indicated limitation.

For the reasons presented above, the combination of Roz and Yamagishi does not teach all of the limitations of the claim because Roz does not teach communicating a decision result to a second communication partner appliance, as recited in the claim. Accordingly, Applicants respectfully assert claim 1 is patentable over the proposed combination of Roz and Yamagishi because the combination of cited references does not teach all of the limitations of the claim.

#### Independent Claim 11

Applicants respectfully assert independent claim 11 is patentable over the combination of cited references at least for similar reasons to those stated above in regard to the rejection of independent claim 1. Claim 11 recites subject matter which is similar to the subject matter of claim 1 discussed above. Although the language of claim 11 differs from the language of claim 1, and the scope of claim 11 should be interpreted independently of other claims, Applicants respectfully assert that the remarks provided above in regard to the rejection of claim 1 also apply to the rejection of claim 11.

#### Dependent Claims

Claims 2, 3, 5, 6, 10, 12, 13, 15, 16, and 18-23 depend from and incorporate all of the limitations of the corresponding independent claims 1 and 11. Applicants respectfully assert claims 2, 3, 5, 6, 10, 12, 13, 15, 16, and 18-23 are allowable based on

allowable base claims. Additionally, each of claims 2, 3, 5, 6, 8-10, 12, 13, 15, 16, and 18-23 may be allowable for further reasons, as described below.

In regard to the rejections of claims 3, 6, 13, and 16, Applicants respectfully submit these claims are patentable over the combination of Roz and Yamagishi because the combination of cited references does not teach all of the limitations of the claims.

Claim 3 recites:

A circuit as claimed in claim 1, wherein the at least one energy source serving to supply the circuit of the second communication partner appliance with electrical energy comprises a battery arrangement, and wherein the determination means are designed to determine first type information which first type information is characteristic of the type of battery arrangement serving to supply the circuit and which first type information is contained in the first energy source information.  
(Emphasis added.)

Claim 13 recites similar language. Claims 6 and 16 recite similar language related to second type information characteristic of a second battery arrangement serving to supply the circuit of the second communication partner appliance with electrical energy. In contrast to the language of these claims, the combination of cited references does not recite any type information characteristic of a battery arrangement in the transponder or another device. Although the Office Action states in the rejections of claims 3 and 13 that Roz purportedly teaches first type information, the cited portions of Roz do not support the asserted rejections because the cited portions of Roz merely describe a specific circuit implementation of the charging means 50. Further, the Office Action does not provide any support for the corresponding rejections of claims 6 and 16. In the rejections of claims 6 and 16, the Office Action refers to the explanations in response to claims 4 and 14, but claims 4 and 14 were canceled previously. So it appears that the Office Action intended to refer to the explanations in response to claims 3 and 13, which are addressed above. Ultimately, Roz simply does not address any type of battery arrangement information. Therefore, Roz does not teach first or second type information characteristic of a battery arrangement. Further, Yamagishi does not remedy this lack of teaching by Roz because Yamagishi also fails to teach the indicated

limitations. Accordingly, Applicants respectfully submit that claims 3, 6, 13, and 16 are patentable over the combination of cited references.

In regard to the rejections of claims 20-23 Applicants respectfully submit these claims are patentable over the combination of Roz and Yamagishi because the combination of cited references does not teach all of the limitations of the claims. Specifically, the combination of cited references does not teach receiving a second decision result from a second communication partner appliance, as recited in claims 20 and 22. Also, the combination of cited references does not teach forming the decision result in agreement with the second communication partner appliance, as recited in claims 21 and 23. Accordingly, Applicants respectfully submit that claims 20-23 are patentable over the combination of cited references.

### CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the amendments and the remarks made herein. A notice of allowance is earnestly solicited.

This response is accompanied by the appropriate fee to obtain a 1-month extension of the period for responding to the Office Action, thereby moving the deadline for response from June 20, 2009, to July 20, 2009.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

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